

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Motor Works, LLC,

NO. C 08-03608 JW

Plaintiff,

**JUDGMENT AND PERMANENT
INJUNCTION**

v.

Safer Technologies, Inc., et al.,

Defendants.

This action was tried on the facts without a jury, a jury having been waived by both parties. The Court stated its findings of facts and conclusions of law on the record after the close of the evidence, pursuant to Federal Rule of Civil Procedure 52(a), and invited the parties to submit briefing with respect to any other matters. On June 8, 2010, the Court made and filed its Supplemental Findings of Facts and Conclusions of Law. Based upon its findings, judgment is entered as follows:

The Court declares that Plaintiff Motor Works, LLC a Nevada corporation is the owner of the CERMA family of trademarks, including CERMA, CERMA LUBRICATION, CERMAX, CERMA ENGINE LUBE, CERMA LUBE, CERMA ADVANCED LUBRICATION TECHNOLOGY, CERMA ORGANIC (hereinafter referred to as “the CERMA family of trademarks”).

Defendants Safer Technologies, Inc., Cerma Technology, Inc., George Ackerson and their respective officers, agents, servants, employees, and attorneys and all those persons in active concert or participation with them:

- (1) Are permanently enjoined and restrained from using any of the CERMA family of trademarks or any confusingly similar trademark, trade name component or otherwise, to market, advertise or identify Defendants' products in the United States;
- (2) Shall cease use of any and all materials developed in connection with the advertising, promotion and marketing of Plaintiff's products including but not limited to customer testimonials, photographs, text, test and performance data, including but not limited to: (a) the website "cermatechnology.com," (b) any telephone number including the pneumatic CERMA (or any variation thereof) in the United States;
- (3) Shall cease making any representations concerning the content or quality of the products of Plaintiff and its licensees in the United States;
- (4) Within 10 days of the date of this Judgment, shall deliver to Plaintiff or declare under oath that they have destroyed all products, literature, advertising and other material bearing CERMA family of trademarks or any confusingly similar trademarks the infringing designation;
- (5) Within 10 days of the date of this Judgment, shall deliver to Plaintiff and lodge a copy with the Court a notarized assignment to Plaintiff of: (a) any and all state or federal registrations or application for registration of the CERMA family of trademarks issued to Defendants or pending from them; (b) documents necessary to transfer ownership and control of the website "cermatechnology.com" and any other websites delivered by Plaintiff or its representatives to any Defendant; (c) documents necessary to transfer ownership and control to Plaintiff all telephone numbers with the pneumatic "CERMA" or any variation thereof held or controlled by Defendants;
- (6) Within 10 days of the date of this Judgment, shall deliver to Plaintiff at Plaintiff's principal place of business or such other location as Plaintiff shall designate all

equipment, including but not limited to bottling machines provided by Plaintiff to Defendants;

(7) Within 10 days of this Judgment shall provide to Plaintiff and lodge a copy with the Court an accounting of any and all profits of Defendants from sales of products using the CERMA family of trademarks.

Because no relief was requested with respect to the corporate name, nothing in this Order shall be construed to require that Defendants cease doing business under the corporate name "Cerma Technology, Inc." Furthermore, nothing in this Judgment shall be construed to prevent Defendants from purchasing and selling products from BYK-Chemie GmbH or any of its distributors in the United States.

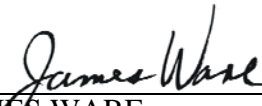
Defendants shall take nothing by way of their counterclaim.

Based on the Court's finding that the following Defendants are not liable for the actions of Defendants Safer Technologies, Inc., and Cerma Technology, Inc., judgment is entered in favor of Defendants Mary Stranahan, Nicholas Streit, and Edward Halbach against Plaintiff Motor Works, LLC. Plaintiff shall take nothing from these named Defendants. As between each of them and Plaintiff, each party shall bear his or her own costs, respectively.

Plaintiff has not sought attorneys fees as a sanction pursuant to the Court's March 10, 2010 Order. Otherwise, each side shall bear their own attorney fees. Plaintiff shall recover its costs of suit.

The Clerk shall close this file.

Dated: June 8, 2010



JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 James Mitchell Hanavan craigielaw@aol.com
3 Robert Chipley Weems rcweems@weemslawoffices.com
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6 **Dated: June 8, 2010**

Richard W. Wieking, Clerk

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8 **By: /s/ JW Chambers**
9 **Elizabeth Garcia**
10 **Courtroom Deputy**
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